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Sandy Yamate

Law School mixer? No! See story on p. 15.

Review Selection Focus of Faculty Discussion

By John Morris

The faculty voted 23 to 17 Wednesday to adopt a modified form of a proposal put forward by the Michelman Committee which would end the practice of automatically forwarding the names of the top four students in each 1L section to the *Law Review*. The motion touched off an unexpected discussion regarding the *Review's* selection process in which a large number of faculty members appeared ready to vote to form a committee to examine the *Review's* criteria and make recommendations for changes. A number were even ready to vote Wednesday for a resolution which would proclaim the faculty's opposition to the continued use of the

grades in selecting almost one half of the *Review's* editors.

The discussion was provoked by the Committee on Educational Planning and Development's proposal, presented by its chairman, Prof. Frank Michelman, which would have required students to request the registrar to send their transcripts to the *Law Review* in order to be considered for membership. The *Review* would then have had to choose on the basis of the transcripts. The plan that eventually won faculty approval will only require students to affirmatively request that the registrar consider them when she determines the students with the top grades in each section. (Under current procedures, (Continued on Page 13)

Review Keeps Fall Writing Competition

The *Harvard Law Review* has voted not to go ahead with a plan for a spring writing competition. The writing competition will continue to be held in the fall of the second year.

The plan was submitted by the *Review* Writing Competition Committee on September 21, and consisted of two alternative proposals: plan A, which would have established a two-round competition similar to that which currently exists except for a two-month interval between the two rounds; and plan B, which would have reduced the competition to one round, essentially identical to round two under the currently existing writing competition.

An ad hoc committee of faculty members, selected by HLS Dean James Vorenberg to review the spring writing competition proposal, expressed opposition to the proposed change. That committee consisted of HLS Profs. Richard Stewart, Christopher Edley, Richard Parker and Lance Liebman.

Taking faculty views into account, the *Review* members weighed the advantages and disadvantages of moving the writing competition to the spring. Jim Feldman, president of the *Law Review*, noted that the spring competition would have benefited the *Review* but would have had an adverse effect on 1Ls.

K.M./M.M.

Kaplow — Hoping to Make a Difference

By Roland Monson

At 26, Prof. Louis A. Kaplow is perhaps the youngest member of the Harvard Law School faculty. Born in Chicago and raised in Northbrook, Illinois, Kaplow graduated from Northwestern University in 1977 with a B.A. in economics and mathematics. After one year at Harvard University as a National Science Foundation Fellow in economics, Kaplow entered the Law School in 1978. He received both his J.D. and an M.A. in economics from Harvard in 1981, though he says that almost all the work for his M.A. was done the year before he entered law school.

Last year Kaplow clerked for Judge Friendly of the Second Circuit. This fall he returned to HLS as one of its newest assistant professors.

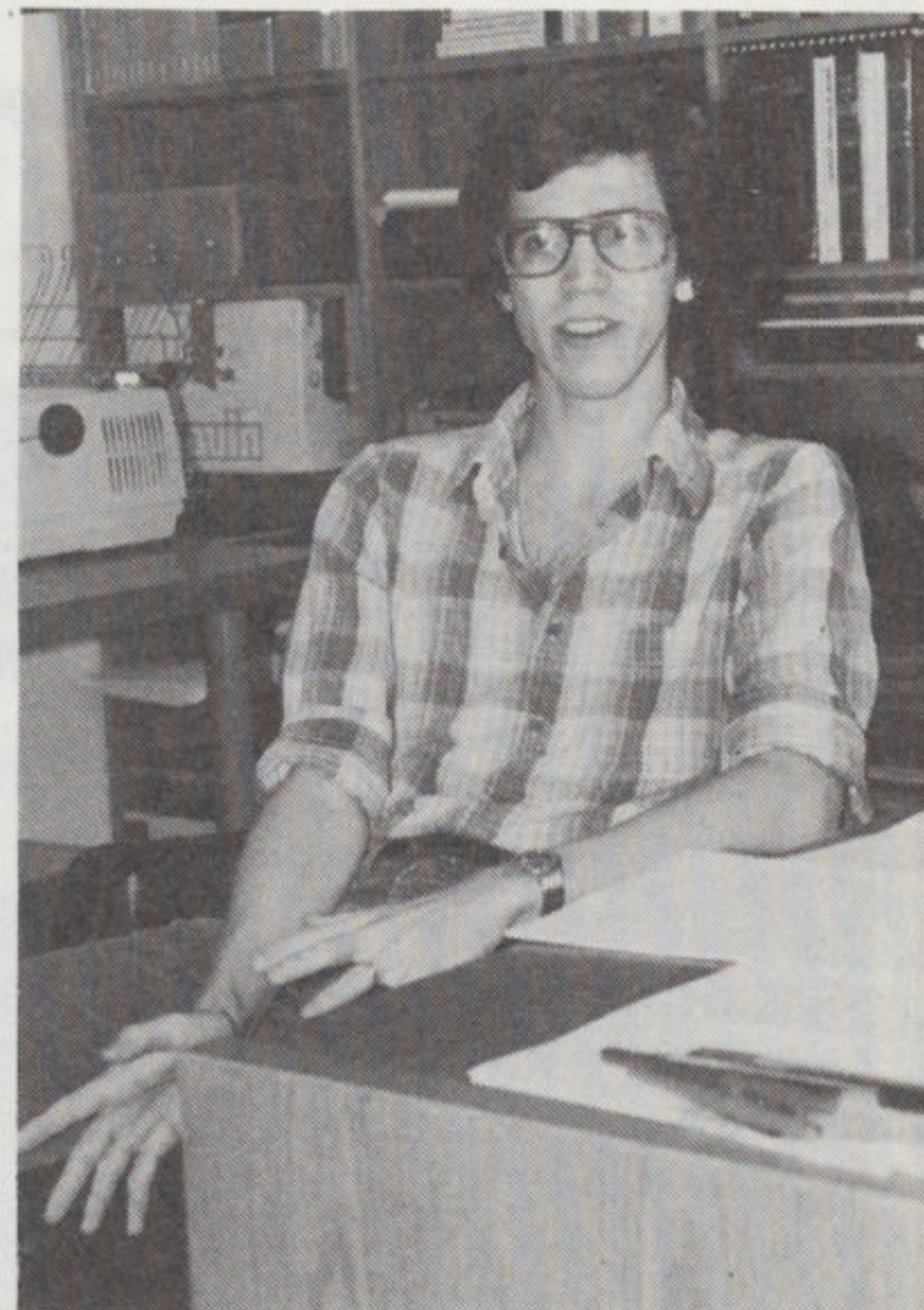
This term Kaplow is teaching only one course, Legal Profession. (He says that HLS helpfully allows professors a light load their first year.) Legal Profession was his own choice, for two reasons. One is a

general interest in the economics of the legal profession, i.e., how well the inputs and outputs of the legal system in our society match up with what we would want.

The other stems from concerns about the course and the Law School from when he was himself a student. "Most students spend very little time thinking about what they are going to do with their lives. They talk about what firms have interesting work or nice people, but very little about what life will really be like for them in a few years." Though opinions differ about whose fault this is — the students', the faculty's, or the system's — Kaplow thinks it makes more sense to ask what can make a difference rather than to argue about fault, and he hopes to make a difference in the classroom.

Asked whether he felt uneasy teaching Legal Profession having never practiced law, Kaplow admitted there were some disadvantages but thought them outweighed by the advantages. Though there are specific questions he can't an-

swer, he notes that practitioners often can't answer them either unless they practiced in the particular area.



Erich Merrill

Prof. Louis Kaplow

The advantages of a non-practitioner teaching the course lie in the perspective and questioning attitude made possible by distance. "A non-practitioner is not caught up in the profession's standard rationalizations of the way it does things." Practitioners tend to have strong views that match up with the kind of practice they are or were in, though there are some marked exceptions, he admitted.

Kaplow says that he has never been interested in private practice, but is somewhat attracted to government and government-related work. These interests are reflected in the courses he will be teaching spring term and in future years.

Spring term Kaplow will teach Antitrust 100, a 1L elective, and participate (along with five other professors) in the Tax Policy Seminar. He hopes soon to teach the basic course in Taxation and is also interested in administrative law.

Kaplow was married this July to a lawyer now clerking for a judge in the Southern District of New York.

Marshall Club: 1825–1982

By Michael Malamut

On Friday, October 22, the once renowned Marshall Club met for the last time and voted itself out of existence. The club claimed to have been founded in 1825 and to be the oldest student organization on campus. Originally founded as a combination social and study group, the club went through several changes in form over its long history. The club's Alumni include Rutherford B. Hayes (the only U.S. President to graduate from Harvard Law School), Oliver Wendell Holmes Jr. and Derek Bok, president of Harvard University.

The club's major intellectual function was to sponsor and fund Ames teams. The club had a section of seats reserved in the front row during the final arguments each year. When the Board of Student

Advisors took over Ames in the '60s and '70s the club began a marked decline.

In its heyday, the Marshall Club was one of the most prestigious organizations on campus, organizing exclusive social and cultural activities. The club eventually became larger and more public than some of the other clubs and offered group excursions to theater and sports events in Boston. The club also sponsored a traditionally raucous Rutherford B. Hayes birthday celebration and an annual Christmas party. These two celebrations and a few excursions were all that remained of the organization that limped along without membership participation between activities. In its final years a core of officers, leaders primarily because they

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3L Roosevelt Prepares for Council Race

By Lee Christie

Mark Roosevelt is a 3L with more pressing things on his mind than cocktail parties and fly-outs. Roosevelt, who lives in Boston's Beacon Hill area, is gearing up his campaign for a seat on the Boston City Council. Although primary day is still 11 months away, Roosevelt seems to have his fund-raising and campaign strategies well in hand, and seems confident about his prospects in next year's race.

The answer to the obvious question about Roosevelt is yes: he is a great-grandson of 26th President Theodore, and a grand-nephew of former First Lady Eleanor. Born and raised in Washington, D.C., Roosevelt is the liberal, Democratic son of Republican parents who have never been politically active. Roosevelt, who turns 27 next month, received his degree in American history from Harvard College in 1978.

His first involvement in Boston politics came early — in 1975 he worked as a ward captain for the re-election of then-City Councillor Larry DiCara. (Roosevelt is eager to point out that DiCara was only 21 when first elected to the city council.) In 1977 Roosevelt managed the successful election campaign of John O'Bryant, the first black ever

to serve on the Boston School Committee. After graduation, Roosevelt spent over a year working in the domestic policy staff at the Carter White House. Roosevelt says he decided to get a law degree because, as the 1980 elections demonstrated, "you can't always be sure there will be a desirable job for you in politics."

District Voting

Next year's elections will mark the first time that Boston has elected any of its city councillors from particular districts rather than electing all councillors "at large." Roosevelt feels that a system of district voting, which eliminates the need to campaign citywide, makes it possible for a newcomer like him to communicate with a defined and manageable constituency. The Eighth District will include Beacon Hill, the Back Bay, Fenway and Roxbury's Mission Hill neighborhood.

Roosevelt, who moved to Boston's Allston-Brighton borough as a sophomore, has lived on Beacon Hill for four years, placing him "not among the longest-term residents there, but certainly not among the newest arrivals, either." The Eighth District contains a diverse electorate, with large numbers of younger professionals, students from Northeastern and Boston Universities, an Irish-American neighborhood, and some public housing projects inhabited largely by black and Latino voters. Roosevelt calls it "perhaps the most political district in a very political city. This race is getting very active very early." Roosevelt characterizes Boston's electorate as a liberal one in which "rich people and poor people often vote the same way."

Roosevelt has special reason to be optimistic about his chances for election since none of the city council's nine incumbents, all of whom were elected on a citywide basis, lives in the Eighth District. With the primary still nearly a year off, Roosevelt and three others are already running "active campaigns," and Roosevelt expects that as many as seven or eight candidates may eventually enter the race. (After the

September primary, the top two vote-getters go head to head in a November runoff election.) Roosevelt says it costs roughly \$50,000 to run a competitive city council campaign, and that fund-raising, though tough, is "also tough for my opponents." A group of law students headed by David Golden, 3L, held an early fund-raiser last week, netting \$1,600 for Roosevelt's campaign coffers.

As a law student, Roosevelt feels that Harvard's size and sometimes impersonal atmosphere are part of the price to be paid for the kind of broad curriculum that can offer Property Taxation, State and Local Finance, Local Government Law



Lon Povich

Mark Roosevelt, 3L

and Land Use Planning. "I was never sure I wanted to be a lawyer," says Roosevelt, "but a law degree here offers a good education in many areas pertinent to government." Under the tutelage of Prof. Lance Liebman, Roosevelt is hard at work on a third-year paper that traces the expanding property ownership of institutions like Harvard and Boston University, and the effects of such expansion on neighborhoods, tenants and the city's land use scheme.

Roosevelt sees his city as entering a very critical time. Housing policies, he says, must be a special con-

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Stereo Jack's



1704 MASS. AVE. 497-9447
CAMBRIDGE MA 02138

Ames Teams Prepare for Argument

By Jack Robinson

Well, it's that time of year again. Time for all those aspiring to acquire the litigation talents of Melvin Belli, Thomas Burns and F. Lee Bailey to compete in the Ames Moot Court Competition. November sees the return of the Ames qualifying round and the Ames final round arguments, the first and last stages of the competition sponsored by the Board of Student Advisors. The Ames semifinal argument is in the spring.

The first of the three Ames rounds, the qualifying round is held in the fall of the second year. In this round, each team of four is divided into two pairs, one pair representing the appellants and the other representing the appellees. Each pair argues twice, but the appellees must write two response briefs, one to each opponent appellant team. The qualifying round arguments will take place the week of Nov. 15-18.

This year the 96 students (24 teams) in the qualifying round will argue four cases: an indictment for deviate sexual conduct, an indictment for an attempt to assassinate the president of the United States, a due process/sovereign immunity issue concerning Supplemental Social Security Income benefits, and an Agent Orange tort issue. Each argument is judged by a panel composed of a member of the HLS faculty, a Boston area attorney, and a 3L who is a member of the *Law Review* or BSA or has been a participant in upper round Ames.

The top four teams in the qualifying round participate in the semifinal round. Each semifinalist team is allowed to add two members, only two oralists argue the case, and the judging panel consists of three distinguished federal or state court judges.

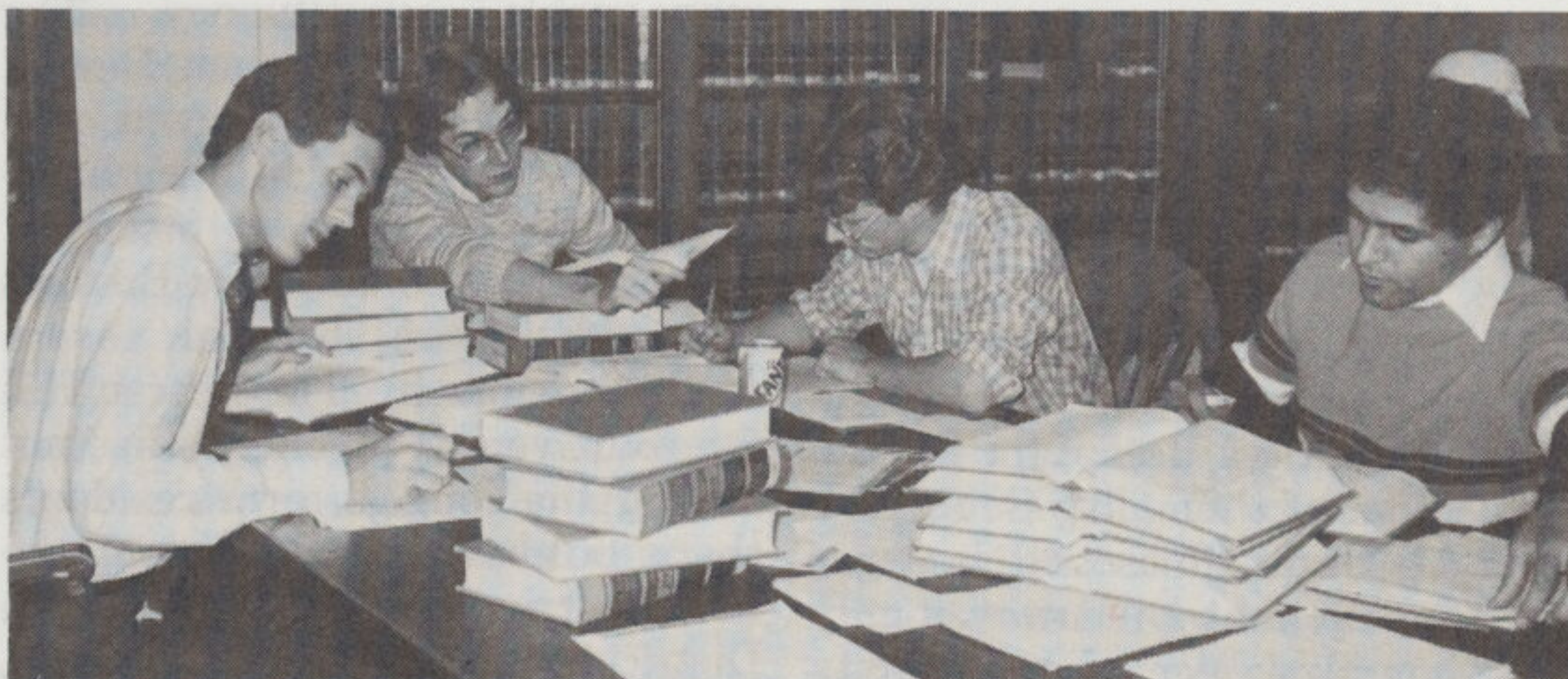
The third and final round of Ames consists of the top two teams from the semifinal round. The panel for the final round normally includes a justice of the United States Supreme Court. This year, Associate Justice Sandra Day O'Connor will

be on the panel that hears the final round arguments on November 22.

Andrew Bridges and Laurel Lenfestey, 3Ls, the BSA coordinators for Ames, emphasize that the amount of work the participants put into their briefs and arguments is "up to [the participants'] discretion." However, BSA suggests that 15-20 hours per week should be adequate to produce a respectable brief and argument. Many participants spend significantly more time. "It is hard to gauge the number of hours participants spend in preparation — people are really motivated," said Bridges.

Bridges and Lenfestey have spent a lot of time on Ames. Their toughest job was certifying the team

petition, according to the BSA coordinators, is to aid students in developing important legal skills — particularly legal research, legal analysis, brief writing and oral argumentation. There are substantial rewards to those who excel. Several thousand dollars worth of prizes for best briefs, oralists and teams are awarded each year in the upper round of Ames. Prizes for the final round alone will amount to more than \$1,000. Perhaps most importantly, the names of the winning team members in the finals are engraved on a plaque in the library, recognizing the fact that success in the final round of Ames is one of the highest honors attainable at the Law School.



Sandra Yamate

Ames Competition qualifying round participants (left to right) David Young, Jim Duane, Tom Brown and Rowan Wilson, 2Ls.

pairings and selecting the judges. This year there are 144 judges for the qualifying round. Among the judges are Profs. Archibald Cox and Laurence Tribe and Dean James Vorenberg. Also included are several prominent attorneys from New York and Judge Robert Keeton of the United States District Court for the District of Massachusetts.

The primary purpose of the com-

Lenfestey and Bridges highly recommend Ames to the current 1Ls who might be interested in litigation. "It's one of the most exciting things to do at HLS. People learn how to work with others in a team situation, and the fact that everyone argues twice and gets feedback from six different experienced judges is extremely beneficial."

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"Justice for All" or the Luck of the Draw?

By Dick Sinapi

This is the second in a series of articles by Dick Sinapi about his experience last summer working for the Massachusetts Public Defenders.

The BMC is of course a District Court. It is the scene of bench trials and pleas on crimes ranging from "gaming" to "assault and battery with a deadly weapon," and probable cause hearings on crimes which range up to "murder." The day-to-day experience in the BMC — indeed, the minute-to-minute experience — is extremely diverse. Like being backstage in a theatre before the show, one can always sense the excitement and the tension. The atmosphere changes quickly, from boring to exciting, from tragic to hilarious.

It is a place where the unwritten rule is not to file pre-trial discovery motions so as not to "educate" the Assistant District Attorney (A.D.A.) on the case. (Usually, A.D.A.s are not assigned cases until two days before trial and do not even speak to the witnesses or police involved until the morning of the trial — unless of course one files a discovery motion.) And it is a place where it is not unusual for charges to be dismissed because witnesses have repeatedly failed to show up for trial. It is a court where it is widely accepted that a defendant is guilty until proven innocent.

District Courts like the BMC are said to dispense "rough justice." Every morning (especially Monday after the weekend arrests) the corridors outside the courtroom are filled with police, prosecutors, defense counsel, and every manner of criminal (I should say "accused") that one can imagine: from pimps and semi-transsexual prostitutes to pickpockets and robbers. A brief description of the participants in the system sheds some light on the character of "rough justice."

The judges are political appointees, many of whom are not well-schooled in the law. Most try to be fair, but their stake and position in the "system" leads most to be oriented toward the prosecution.

The A.D.A.s are also political appointees. They are overworked and some are underpaid. (The salaries of A.D.A.s and Mass. Defenders are now tied — a victory for the Defenders — but I am told that by dividing up certain high salary positions, the D.A.'s Office creates several low-paying A.D.A. positions; starting salary is in the \$19,000 range.) Most are competent attorneys, but many become lazy. As low men or women on the totem pole, they are struck with the non-glamorous (and for the most part non-challenging) job of conducting bench trials and probable cause hearings in the District Court — a process which usually requires no more than putting the arresting officer on the stand and having him or her tell his or her story. Thus their skills as trial lawyers become dulled.

Alter Ego

The Mass. Defenders is the alter ego of the D.A.'s Office, though a position with the Defenders is based on merit. Each Defender is selected from a pool of as many as 400 applicants. The Defenders also have heavy caseloads, though not as heavy as those of the A.D.A.s. The Defender's office is organized "vertically." Thus, they follow their cases from the District Court bench trial to the Jury Session or Superior Court. For the foregoing reasons, the Defenders usually have an advantage over their counterparts in being better prepared and more familiar with their cases. They are disadvantaged by the fact that they frequently have little or no case to work with. (However, it is the challenge of finding and presenting a theory of the case when the facts, law and usually the odds are against you that I find to be one of the most attractive aspects of being a public defender.)

Based on my observation in the BMC, a fair number of court-appointed private attorneys are either incompetent or should be sued for malpractice. My conclusion is based on my observations of attorneys who were apparently unprepared, not

well-versed in the applicable law, or unaware of the proper way to conduct a criminal trial. The fact that private attorneys are appointed mainly to relatively easy misdemeanor cases and are very poorly compensated may explain the quality of their advocacy. Privately retained attorneys, who are rare in the BMC, run the spectrum from poor to excellent, the majority being fairly good.

Ninety-five percent would be a fair estimate of the proportion of defendants in the BMC who have been in court before — many have multiple previous arrests and/or convictions. Often defendants are: (1) young; (2) minorities; (3) from a poor, one-parent family; (4) from the poorer neighborhoods and schools in the city; (5) suffering from a mental illness or deficiency; and (6) dependent on or abusing drugs or alcohol. I have never seen a criminal defendant in the BMC who did not have at least one (most have several) of those characteristics. Middle-class or even working-class offenders with solid family backgrounds who are from the better neighborhoods are nearly nonexistent.

Ask any Mass. Defender what is wrong with the "rough justice" dispensed in the BMC and the consistent answer is that it is neither the quality of the judges or advocates nor the heavy caseloads, but the gross uncertainty of results — the sheer unpredictability of outcomes. The system is a lottery where a defendant's fate depends more on the luck of the draw — which prosecutor, police officer, and judge a defendant draws — than on the quality of his defense, his past record, the severity of the crime, or the facts of the case. Given the same charge, similar facts, and similar records, one defendant may be acquitted or given probation while another will be given a jail term. What is responsible for such disparities?

One factor is the ability of the advocates and the judge, their personal biases and their knowledge

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Court's Decision Leaves Miranda in Jail

By John Morris

This is the second part of a two-part story.

Miranda was grateful to Arizona Civil Liberties Union counsel Robert J. Corcoran for arranging for the firm of Lewis, Roca, Scoville, Beauchamp & Linton and its attorneys John Flynn and John Frank to appeal his case to the U.S. Supreme Court. From prison, Miranda wrote Corcoran to say, "Your letter which I recently recieved [sic] has made me very happy. To know that someone has taken interest in my case, has increased my moral [sic] enormously."

A five-lawyer team headed by Flynn and Frank had their work cut out for them. While in retrospect the decision could seem to be a foreseeable extension of the *Escobedo* decision, the litigators were not so sure. "It certainly didn't seem inevitable," Frank says now.

From the other side, the possibility of a decision for Miranda certainly did not appear inevitable. In fact, it seemed downright unlikely. Gary K. Nelson, now chief staff attorney for the Arizona Supreme Court, was then assistant attorney general in charge of the Arizona attorney general's criminal appeals division. "Many of us thought that *Escobedo* was the outside parameter," he says.

Nelson was assisted by just one law clerk, and he had to apply for special permission to practice before the Supreme Court because, when the briefs were filed, he had not been practicing long enough to meet the court's normal requirements.

Because Miranda was a multiple offender, Nelson thought the Miranda case was one of the strongest of the four cases that were consolidated before the court. "There is no real doubt that Miranda understood and knowingly waived his rights. There wasn't much doubt that he knew what was going on," Nelson maintains. Before the oral argument, though, Nelson discussed the cases with Thurgood Marshall, who was then U.S. solicitor general

and who was arguing the federal government's position in one of the companion cases. Marshall told Nelson that he thought the Miranda case was the weakest of the government cases.

Nelson still does not know the basis of Marshall's intuition, but

years later, it is that the decision did not have the devastating effects predicted in 1966. "By and large, it didn't inhibit law enforcement as much as law enforcement thought it would," Gary Nelson says now. He does say, though, that he thinks prosecutors drop many cases be-



The Arizona Republic

Ernesto Miranda (right) with his attorney, John J. Flynn.

when the 6-3 decision was handed down, Miranda was, of course, on the winning side. The decision made many front pages. Chief Justice Earl Warren was described as being very emotional when he read the 61-page decision from the bench. The dissent was strongly worded, Justice Harlan describing the majority's aim as being "toward 'voluntariness' in a utopian sense, or to view it from a different angle, voluntariness with a vengeance."

Frank does not know what Miranda's reaction was. "I never laid eyes on him," Frank said this fall. "That's one of the joys of the appellate lawyer."

When the decision was announced in June 1966, it was greeted by a storm of criticism from law enforcement officials and others claiming it would make crime fighting impossible. If anything is clear 15

cause the warnings are not properly administered.

John Frank thinks the case did help to achieve a genuine improvement in the treatment of suspects. The Burger court has not been able to undo the good of *Miranda*, he says, although it has been "trimming at the borders." (And while the court is making less of the requirement, the warnings, no longer so controversial, are heard in fewer and fewer TV arrest scenes.)

It is impossible to measure the practical effects of requiring the warnings. Confessions are often given to clear a suspect's conscience; often they are spontaneous. Early studies showed no major changes in police practices as a result of the decision. Investigations continued largely as they had before. A survey published in the *Yale Law Journal*

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On Parole, Miranda Led a Quiet Life

(Continued from Previous Page) in 1967 found that questioning was necessary to solve a crime in less than 10 percent of all cases and that the warning requirement had adversely affected a necessary interrogation in only six of 127 observed interrogations.

HLS Prof. Lloyd Weinreb suggests that, ironically, the formality of the warnings may in some cases even help to induce confessions, with suspects thinking that police are free to do what they like once the procedures have been followed. Certainly, where the warnings have been given, courts are now very reluctant to make broad inquiries into the voluntariness of confessions.

With all the attention focussed on the decision's innovativeness and its effects, few noted that it did not set Miranda free. The object of so much legal maneuvering was still serving the concurrent 20- to 25-year sentence imposed for the robbery and kidnapping charges that grew out of the November 1962 attack on the teller. Miranda filed a writ of habeas corpus demanding that he be freed but that was denied by the Arizona Supreme Court in 1967.

By that time, the state had re-prosecuted him for the rape and kidnapping charges — the charges at issue before the U.S. Supreme Court. Barely seven months after Earl Warren's opinion was handed down, Miranda was reconvicted and sentenced to the same 20- to 30-year term he had received when that case was first tried. While Miranda was in prison, Twila Hoffman had found another man and had turned state's evidence, recounting a confession he had made to her when she visited him in jail. The reconviction was appealed to the state Supreme Court in 1969, but the court held that the testimony was not the fruit of the illegally obtained confession which had been thrown out by the U.S. Supreme Court. Miranda appealed, but the U.S. Supreme Court denied certiorari.

Eventually a retrial was won in the kidnap and robbery case. Tried

under a pseudonym because of his notoriety, Miranda was reconvicted on these charges as well in 1973 based on the teller's identification. It was held admissible because of the long period of time she had been with Miranda in her car that November night nine years earlier. The sentence was the same 20 to 25 years he had been given originally, but it was made concurrent with the sentence given in the rape case. This reconviction was upheld by the Arizona Supreme Court as well in May of 1973 in its sixth decision involving Miranda.

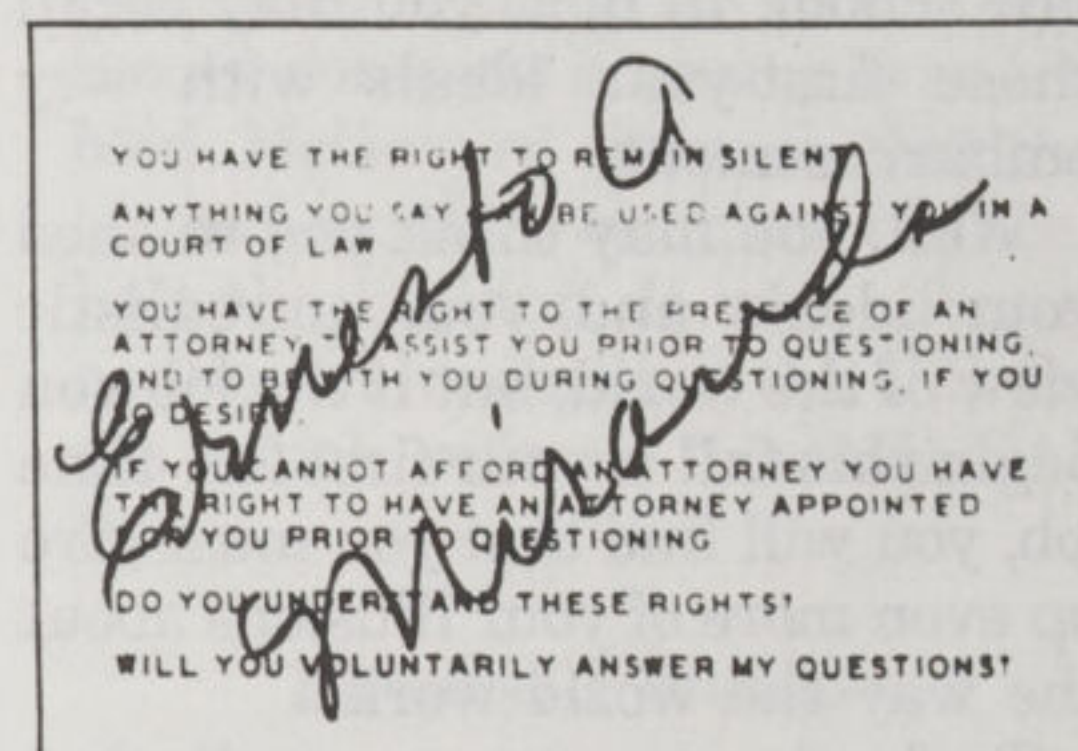
By the time that decision was handed down, Miranda was on parole. He was arrested in 1974 — and given his warnings — when he was caught in possession of three amphetamine pills and a firearm, but the charges were dropped after a Superior Court judge ruled that there was no probable cause for the search of his car which led to the arrest.

Making It

"Except for that one incident in 1974, we haven't had any trouble at all with Miranda, and he seemed to be making it," a parole officer told the Associate Press in 1976. Miranda was employed as a delivery man then and his employers spoke of him glowingly. He had been promoted to supervisory positions in several jobs, and had been given responsibility for handling cash in one. In prison he had completed his high school degree and earned some college credits as well which no doubt helped him adapt once he was released. To people who knew him socially, he was polite and well-adjusted. Woman who dated him were reported to have been impressed by his gentleness.

The police painted a somewhat different picture of Miranda, though. They claimed he was one of the cagiest drug dealers they encountered, but they were never able to catch him. Miranda teased officers who stopped him for questioning. One said that Miranda would complain that "he could only spare

a little time to answer questions because he was a busy salesman with a fast-moving commodity." He would then pull out one of the autographed Miranda warning cards that he sold (see inset). Nelson describes him as a regular "courthouse wag" because he was known to stand on the courthouse steps in Phoenix selling the cards. Nelson says several judges he knows have copies of the cards.



An autographed Miranda warning card

Despite the officers' claims, Miranda's life was, to most appearances, quiet and modest. There were no signs that he had the sizable income one would expect a dealer to have: he was still selling his autographed cards for \$1.50 and \$2.

This apparently quiet life came to an end in 1976. Ernesto Miranda, the man whose violence had catapulted his name into the news, was to die a violent death that year.

He was playing poker with two men in the La Amapola bar on January 31 when a fight broke out over some change on the bar. Miranda beat up the two men. Afterwards, he went to the restroom to wash off his bloodied hands. When he returned, one of the other men came at him with a six-inch lettuce-harvesting knife and stabbed him once in the chest and once in the abdomen. Miranda slumped to the floor. *The Arizona Republic* reported:

"When Miranda was stabbed . . . he was carrying two 'Miranda cards' police said. The suspect, Rodriguez, was also advised of his rights by police carrying the cards."

A Survival Manual for Big Firm Practice

Robert McGillicuddy

Most law students decided to go to law school for reasons born of idealism and a desire to make a contribution of some sort to the world. Whatever the reason, most of you who read these words are destined to join a large law firm in a major city after you graduate from law school; in fact, you may recall those first-year ideals with wry embarrassment.

Well, you may think you've shed your ideals and your unrealistic view of the world, but if the job you begin this fall is your first full-time job, you will find that you must give up even more of your illusions about the way the world works.

To begin, you may recall that many summer associates gleefully compare the "perks" and "extras" you enjoyed if you worked for a big-city law firm during your summers in law school. What you may not realize is that the most delusive perk of all is the one nobody mentions — the work itself.

Most of the assignments given to summer associates are discrete, with definite beginnings, middles, and ends. They are framed in order that your entire summer not be dominated by a single, stultifying task that would disenchant anyone with not only the firm, but the practice of law in general. Interesting work is just as much a perquisite as being taken to lunch at a posh restaurant. You will not see all that much of it as a regular associate.

Preferences Ignored

Second, the preference you express for the kind of work you would like to do may not be granted, either because too many of your fellow beginning associates want the same thing or because your preference was misunderstood, ignored, or lost in the shuffle. You may want to be a litigator, but unless you are explicit, unyielding, and just shy of violently allergic to anything else, you could end up a corporate or tax attorney.

Third, the way you are treated as a summer associate is nothing like the way you are treated as a regular associate: when you are a summer associate the firm is trying just as much to woo you as to evaluate you, but when you are a regular associate your opinion of the firm is not terribly important to anyone besides yourself. But this is linked to perhaps the most important thing a beginning associate should know about the way "the dear old firm" views him or her.

You Are Fungible

Beginning associates coming from major law schools such as Harvard, Yale, or Columbia do not realize how many law school graduates there are compared to the number of legal jobs available, particularly jobs with "major" law firms in large cities. Law students coming from schools such as Harvard have an extraordinary advantage in the job market; this is tired stuff, and you all know it.

The problem is that for a beginning associate in the first or second year of a legal career with a large urban law firm, there are many hungry people out there who could fill your shoes very easily, and the powers-that-be — i.e., the partners — know it. You are fungible. You can be replaced. And, if you don't watch your step, that's precisely what could happen to you.

There are all sorts of mistakes a beginning associate can make without realizing it. One all-too-common mistake is to give the impression that you have other interests that are more important to you than the practice of law. It doesn't matter what — whether it is opera, movies, books, family, or sports (though this last is usually a safe topic for conversation, as in "What do you think of those Yankees, huh?"). Do not talk extensively, or indeed at all, about your outside interests with partners unless they raise the subject first, for

they are apt not to care about what you care about and might even dislike the idea that you have other interests.

This flows from two sources — first, they are practicing law not for their health, but to make money, and for you to have other interests might mean that you are not devoting sufficient care or attention to your work, which might reflect badly on them. Second, many partners, in order to become partners, have shed most or all of their interest in things other than law, and consequently may feel threatened by an associate who still finds time for the Chicago Symphony Orchestra or the *New York Review of Books*.

I cannot stress this point too strongly. You may remember Thoreau's comment that "the mass of mankind lead lives of quiet desperation." It is not just witty; it is true. Many lawyers, be they partners or associates, rapidly become so immersed in their jobs that they shed whatever remains of their lives save for the bare minimum necessary to maintain their sanity. You have no idea how intimidating such people may find a new associate who can keep up with the latest books

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McGovern Blasts Reagan Foreign Policy

By Charlie Mitchell

President Reagan's foreign policies, based on a "simplistic" idea that the Soviet Union bears responsibility for almost all international tensions, severely threatens both the possibilities for nuclear arms control and the vitality of America's economy, according to former U.S. Senator and Democratic presidential nominee George McGovern.

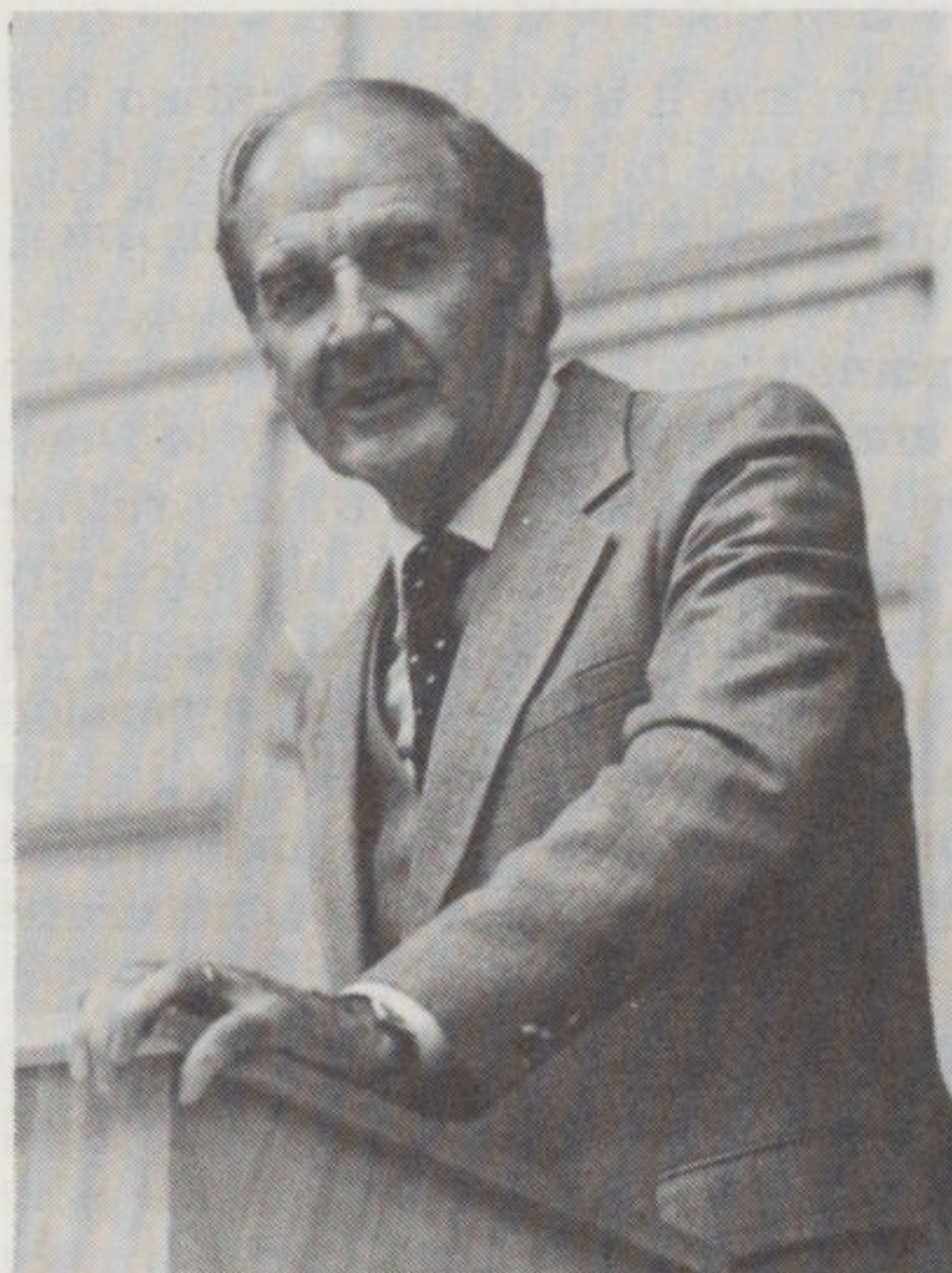
Addressing a friendly, near-capacity Langdell North Middle audience at the October 28 Forum, McGovern warned that if the American and Soviet rivals do not halt their arms race within the next 10 years, the chances for arms control will be lost for good, and nuclear war will be very likely. The changes urgently needed in Reagan's policies, he argued, may well be accomplished by adopting the best aspects of some Republican predecessors' policies: Eisenhower's approach to defense and Nixon's approach to negotiation between superpowers.

Don't Credit Soviets

Speaking more in academic than in political style, the former history professor claimed the role of a critic, "a commendable role for a patriotic citizen, because a critic always operates from the assumption that the country can do better. That takes a certain faith." He conceded that some of his own past positions, in particular support of the Jackson-Vanik amendment linking most-favored-nation trade status for the Soviet Union to Soviet progress on human rights, were questionable. McGovern also strongly endorsed one recent aspect of Reagan policy: his Middle East peace plan. Reagan's proposed settlement of the Palestinian problem is a "carefully formulated, balanced, logical extension of Camp David," McGovern believes.

But his "compliments" of Reagan went no further. Reagan's assumption that the Soviets are behind all world conflict, and its corollary,

"that anti-Communism should be the controlling compass of all American foreign policy," severely harms American interests when we deal with other countries, in McGovern's opinion. Turbulent unrest in developing countries, is an understandable, if sometimes extreme, response to past oppressive governments in those countries themselves. Americans do these popular movements a disservice, and decrease our chances for fruitful relations with them, when we "give the Russians credit" for the accomplishments of indigenous forces, he said.



Bob Peterson

Former Senator George McGovern

In the past, our aversion to forces with any hint of Communist taint destroyed opportunities to ally with movements which desired American support more than they did Soviet aid. Significant among these was Vietnamese nationalism, which originally adopted, in an overt solicitation of American support, Ho Chi Minh's "Declaration of Independence" consisting of language taken directly from our own. As presently applied by Reagan, McGovern noted, this approach has particularly ironic results. Our refusal to aid small, possibly Communist countries does not carry over to unequivocally Communist "giants," even the Soviet Union. We

cut off grain sales to Nicaragua, but not to the U.S.S.R., which then resells Nicaragua the grain purchased from the U.S.

McGovern is more troubled by the consequences of this "misguided" policy for our relations with the Soviet Union itself. Reagan has been "brainwashed" by persons who argue that the Soviets are so "irascible and unreasonable" that we have no reason to bargain until we have a clear lead in the arms race. Yet the Soviet domestic economy is so troubled, McGovern claimed, that their leaders would welcome a chance to halt the buildup. It was, after all, not Soviet leaders but the U.S. Senate which refused to ratify SALT II.

Reversed Window

McGovern believes that Reagan's unwillingness to accept an immediate nuclear weapons freeze ignores the urgency of preventing the deployment of the new generation of first-strike weapons. Once such weapons are in place, incentives for arms control vanish because assessments of an opponent's growing first-strike capability lead to the conclusion that firing first, before that capability is complete, is the rational choice. Without new agreements, McGovern believes we will reach that point within ten years.

The former senator particularly criticized the administration's "window of vulnerability" and "limited nuclear war" scenarios. If the first of these, claiming that land-based missiles will become vulnerable to a first strike during the mid-1980s, is true, the U.S.S.R. is the vulnerable adversary. Three quarters of their nuclear weapons, but only one quarter of ours, are land-based. Each American nuclear submarine carries enough missiles to destroy every major Soviet city, regardless of the fate of our ICBMs. The "window" fears are like those of the bomber and missile "gaps" during the 1950s, which President Eisenhower argued to be illusory,

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Testing Our Patience

The resounding defeat of Republicans which many had predicted did not materialize in Tuesday's voting. In light of the rather dire condition of the economy, the outcome is surprising. The outcome must surely be the result of two things: a hopeful patience on the voters' part and the failure of the Democrats to present any alternative to the Reagan policies which could capture the imagination of the voters.

A reluctance to endorse Democratic policies which were renounced two years ago is understandable. But if Republicans are to keep from losing those voters who were patient this time, they must demonstrate that their policies are sound, and they must follow them consistently.

The whole appeal of the Reagan economic plan was that it promised to reduce inflation without causing unemployment to rise. The tax cut was supposed to spur investment and thereby stimulate economic growth, creating jobs and boosting tax revenues. The promise was not fulfilled. The 10% unemployment figures in September are more than minor deviations from projections; some see them as glaring refutations of the economics of wishful thinking. And it is no new trick to reduce inflation by a recession.

Even skeptics could perhaps bide their time if the administration had demonstrated a dedication to a key part of its plan: a balanced budget. Unfortunately, Mr. Reagan has been uncharacteristically credulous when dealing with bureaucrats when they come from the Pentagon.

The Democrats failed to press the point that the fight is not between the responsible forces of Republicans and free-spending throngs of Democrats, but rather between deficits created to feed the military rather than the poor. Mr. Reagan has successfully maintained his nice-guy image, but his underlings do not affect such compassion and the spending choices they make are very harsh indeed. The image of compassion cannot stand up forever. Nor can the image of sincerity. It is belied by Mr. Reagan's disingenuous support for the balanced budget amendment which he would be as horrified to see passed as would his Democratic opponents.

The current state of the economy may not be entirely caused by Reagan's policies. But unless the administration sincerely pursues an equitable balanced budget, the voter's patience will run out.

Fenno

Fenno was aghast.

"Your account's been frozen," the bartender at Georgie's informed Fenno when he ordered a beer — the tuition office had garnished his prepaid line of credit. The bartender served him a frosty mug and said, "This last one's on the house."

Fenno slowly drank his beer, and lamented his misfortune. He lay his head on the bar, using a discarded newspaper for a pillow, and wondered what to do.

An ad beneath his cheek caught his attention. "Collector seeks fine examples of architectural sculpture," the ad read. "Top cash."

"Hmmm," Fenno said to himself.

Early the next morning, Fenno stood outside Austin Hall, gazing up at a stone dragon wrapped around a drainpipe. He had a ladder, a pick axe, chisels and a chain saw.

He was sure he was alone. He climbed the ladder and pulled the cord of the chain saw — just as the 4 A.M. shift began to arrive at the *Harvard Law Review*. Alerted by the noise, an editor called the police. With the crowd from Gannett House looking on and the squad car's blue lights whirling in his face, Fenno was handcuffed and read his Miranda rights.

"*Miranda vs. Arizona*," one of the *Law Review* editors called out. "384 U.S. 436 (1966)."

Fenno turned and, even though handcuffed, managed to gesture toward the editor. Fenno was subsequently charged with public lewdness in addition to attempted larceny and destruction of property.

Fenno's defense counsel, Alan Dershowitz, succeeded in having the charges reduced to contemplating the possibility of considering a plan to deface a historic landmark. Fenno pleaded guilty and was fined \$100.

Fenno suddenly found himself with debts to the court, to the tuition office, and to Dershowitz. Dershowitz confronted Fenno in Pound Hall and demanded payment.

"Say," Fenno said, pointing over Dershowitz's shoulder, "isn't that Phil Donahue?" Dershowitz whirled to look, and Fenno ran in the opposite direction.

Fenno had been in hiding ever since. That's why he was in class. No one, he figured, would look for him there.

But Fenno didn't feel entirely safe. He sat at the back of Langdell South holding a newspaper up to his face. He peered through a flap he had cut in the pages, surveying the classroom. At the front, John Marshall's serene visage peered down from his gilded frame, also surveying the classroom.

Fenno glanced at an ad next to the flap in the newspaper: "Collector seeks fine examples of Georgian era paintings."

He looked out the flap again at the portrait of John Marshall. "Hmmm," Fenno said to himself.

HARVARD LAW RECORD

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Letters to the Editor of the Record

Student Participation?

To the Editor:

If my recent experience is at all typical, there is something seriously amiss in the process of placing students on faculty committees at the Law School. Although the right to have student members on these committees was only recently achieved after considerable struggle, I have to wonder if its purpose has not been lost in the morass of student bureaucracy.

First, my experience. Shortly after completing an application to serve on a faculty committee, I received notice that I was to appear for an interview at 4:15 P.M. That notice was placed in my student mailbox sometime after noon on the day of the appointment. It was written on a crumpled scrap of paper. After rearranging a number of other commitments, I appeared for my interview to discover that I knew considerably more about the committee I was asking to join than did the members of the Law School Council with whom I was talking.

After explaining the project and the committee's mission to my interviewers and answering a few questions about my own interests, I was excused, never to hear about the fate of my application. It was only through a conversation with a faculty member on the committee that I learned that two students had been chosen and had already attended a committee meeting. (At least one of these students had indicated at that meeting a complete misunderstanding of this committee's task.) Had a law firm, interviewing on campus, treated me in a similar fashion I would file a complaint with the Placement Office.

Aside from this lack of common courtesy, some general questions remain about the entire endeavor. If members of the Law School Council do not know the mission of a faculty committee, how can they responsibly choose a student to join that committee?

If students are placed on a committee without any understanding of the goals of that committee, how can they serve in any meaningful way? If students are meant to contribute to these committees, what qualities are seen by the Law School Council members as most predictive of success? If the Law School Council wants to encourage student participation on faculty committees, why are applicants treated in such a shabby manner?

Leila Kern, 2L

A New Style of Letters

To the Editor:

Your unshiny white paper and black headlines and sub-headings, plus slightly larger type is a blessing to your older readers with fading eyes — God bless you. And headlines that briefly tell the main story — not a punster's self-indulgence in cuteness with the main story tucked nicely away. Congratulations and thanks.

You ask for letters to the editors and story ideas. Here is an idea that takes guts, imagination, and audacity — dominant Harvard traits — plus a bit of common sense and diplomatic tact, not always high-listed among fair Harvard's affluence of attributes.

Let's call it Carbon Copy to the Editor. The average American today, unless he owns a TV station, radio network, or newspaper, has little or no forum for his expression of ideas, particularly in business and politics. You can write a letter to your mayor, governor, president, or president's aides and you might as well look out the window and whistle at the birds. If you're "lucky" some bureaucratic Washington stooge will muster an ambiguous, weasel-worded missive to placate your feelings, even as your letter to the president or whomever goes into the wastebasket.

But not now. . . . I write my president, telling him what blunders he has committed, how foreign policy has been shattered in his puerile attempts to divert us away from the financial facts of life at home. Possibly I have a few suggestions, and God knows you could flip a coin and come up with improvements. But I direct my letter to the special attention of the recipient-official, sending a carbon copy of my letter to, say, Mr. Reagan, to the editors of HARVARD LAW RECORD. The RECORD, of course, reserves the usual rights to reject, edit, shorten, or whatever to streamline the Carbon Copies to the Editor for best reading.

Needless to say, the reaction and replies to these sometimes provocative copies appearing in print will elicit some most exciting responses from those concerned.

But over-all, Joe Doakes American has a forum and place for his comments that go to the heart of the issue's problem; and the

answers will come from those whose duty it is to reply. Pipeline blunders, over-cost giveaways, and a long list of items come readily to mind and am sure the RECORD editors could think of many school and national, plus worldwide subjects. Your readers many more.

Carbon Copy to the Editor, if not out of hand, could stimulate writership as well as readership. Above all it would relieve the frustrations of the millions whose views and voices are regimented and relegated to the polls.

As you know, ideas and concepts are poor candidates for patent or copyright protection. However, a trademark of the most descriptive name, Carbon Copy to the Editor might well be syndicated to newspapers and newspaper chains should the HARVARD LAW RECORD, to which I hereby submit and donate this suggestion for its exclusive use and possible syndication, hopefully profiting my old school and its newspaper. . . .

Yours until the Marines get out of Lebanon or the federal budget is balanced. And please keep that perfect typographical format for the HARVARD LAW RECORD. With all best wishes.

Burton B. Jerrel, '34
Laguna Hills, Calif.

In Defense of Dershowitz

Dear Mr. Horn:

Just as you say you have never met Prof. Alan Dershowitz, I have never met you. However, there is one thing that I can pretty much guess about you — you have had little or no experience in a courtroom representing an unpopular client.

If you had any such experience, you would not have written in your book review (RECORD, Sept. 17, 1982) of Dershowitz' *The Best Defense*, that "the spectacle of this man repeatedly attacking the judges who rule against his clients is shocking and eventually tiresome." You might understandably be shocked, perhaps, because someone has finally said that so many of the emperors on our benches have no clothes on. However, your tone makes it apparent that your being shocked has something to do with the fact that you really don't believe all that Dershowitz says about many judges. And how, pray tell, can attacking judges ever be "tiresome"? Very few people, after all, engage in the practice, especially lawyers who see their livelihood endangered by such honesty.

I will not comment on those portions of your review which attack Dershowitz' alleged stroking of his own ego. I am, after all, a Dershowitz "sidekick," to use the felicitous

(Continued on Next Page)

Letters Policy

The RECORD's policy on letters is simple. We read all of them. We print most of them, subject only to editorial discretion. We encourage letters on any subject, and particularly concerning subjects which have been covered in the RECORD.

Letters should be typed and must be received by 5:00 P.M. on the Tuesday before the issue. We prefer letters of no more than 700 words. Letters should be addressed to the RECORD rather than to third parties. In no event will the RECORD publish letters by writers who have not identified themselves to the RECORD.

Letters to the Editor

(Continued from Previous Page)

phrase adopted in your review to describe my place in the universe. I will, however, make this one comment, in view of your description of me. I remember when, a number of years ago, the Protestant clergy of Jersey City, New Jersey, held a press conference to charge that "Jersey City is an abomination unto the Lord" on account of its widespread corruption, and to charge further that the mayor of Jersey City was a "puppet" of Hudson County Democratic Party boss John Kenney. The Mayor held a press conference the next day, to rebut the claim. He said that the clergymen were grossly exaggerating, since Jersey City is not *that much* of an abomination. And, as for the charge that the mayor was a tool of Kenney, he denied vehemently that he was such a tool, adding, however, that "if I were a tool of John V. Kenney, I'd be proud to be a tool of that great American."

Dershowitz' sidekick or not, I witnessed many of the events in his book, and I can vouch for the fact that many judges played a most shameful role in those cases. I have also had too many of my own shocking experiences with judicial intellectual dishonesty, and I would urge Mr. Horn to look more closely at the real world before assuming that Dershowitz is picking on judges merely to find an excuse for a lost case or two.

Harvey A. Silverglate, '67
Boston, Mass.

David Horn replies:

It is true that one of Prof. Dershowitz's stated themes is that many judges are incompetent or dishonest, but in my review I took no position on that assertion.

What I questioned was the manner in which Dershowitz criticizes judges. His harshest words are reserved for those who ruled against him — even when they are praised elsewhere in the book — which creates the appearance that he is complaining because they ruled against him.

Finally, my use of the term "sidekick" was not meant to be derogatory. The Random House Dictionary defines "sidekick" as "a close friend" or "a confederate or assistant." I think this aptly describes Mr. Silverglate's place in Dershowitz's narrative.

A Little Razzle-Dazzle

To the Editor:

Austin Hall still stands, 3Ls are still burdened with the third-year paper, and people are still getting maimed playing football at HLS. Unfortunately, the only newsworthy portion of your article about violence on the

intramural fields was that efforts are being made to curb these atrocities; the incidents of roughness cited could have been randomly drawn from any of my three recent years at the Law School and, I venture to say, from many seasons before that.

Yet, there is a glimmer of rational behavior among the gridiron-minded at HLS. Each year, a minority of pigskinners opts for a style of play in which physical contact of any kind is taboo, and the premium is on quickness, not the velocity behind one's forearm. Yes, I refer to the Razzle-Dazzle league at HLS, scorned by the Black Plague and the Armadillos (who have never played it) as "sissyball," but loved by all that play it for the intricacy of its strategy and its involvement of every player.

To HLS I say, "Get rid of the traditional style of play and go Razzle-Dazzle." Schools throughout the country, including North Carolina, Virginia, and (they beat us again) Yale have seen the light and adopted Razzle-Dazzle in lieu of standard "tag" football and its carnage. And to those who still think that Walter Camp invented the only way to play football, I say, "Try it, you'll like it."

Mike Egan III, '82
Atlanta, Ga.



Rough Justice in Criminal Courts

(Continued from Page 5)

of the law. (The less the prosecutor knows and the more the judge knows, the better it usually is for the defendant.) Another factor is the tendency of certain police officers to stretch the truth or lie to convict a defendant where there is insufficient evidence otherwise.

But by far the most important factor responsible for the gross disparity in outcomes is the total absence of sentencing standards, which stems from what I charge is an unarticulated but widely held realization that imprisonment is an inappropriate and ineffective sanction to be imposed on any but the most violent and dangerous offenders. Time and time again, judges and prosecutors grapple with what to do with the repeat non-violent offender.

The next article will discuss how the "system" works in the absence of sentencing standards — and why the system remains unchanged.

Great Moments in the Law

MAXIMS OF JURISPRUDENCE

§ 3530. Nonexistence

That which does not appear to exist is to be regarded as if it did not exist.

§ 3532. Idle acts

The law neither does nor requires idle acts.

§ 3533. Trifles

The law disregards trifles.

§ 3536. Greater contains the less

The greater contains the less.

§ 3537. Superfluity

Superfluity does not vitiate.

§ 3538. Certainty

That is certain which can be made certain.

§ 3540. Incident follows principal

The incident follows the principal, and not the principal the incident.

§ 3546. Ordinary course of nature

Things happen according to the ordinary course of nature and the ordinary habits of life.

§ 3547. Existence of things

A thing continues to exist as long as is usual with things of that nature.

§ 3548. Law obeyed

The law has been obeyed.

— Cal. Civ. Code

Readers' contributions to
"Great Moments" are welcomed.



Fred,

Wish we could dance the night away. Happy 3 1/3.

Love always,
Ginger

End of A 157-Year Tradition

(Continued from Page 2)

showed up at meetings, struggled hard to keep the club together as a viable and entertaining campus activity.

When the BSA started to sponsor theater trips, the 1L harbor cruise and Ames, the club's final reasons for existence vanished. The problem was accentuated by the opening of the Back Bench and game room which gave students a forum for regular social rendezvous. Unlike some of the clubs that remained small and selective or expanded into generalized socializing, the Marshall Club remained a large amorphous organization, lost its vigor, and gradually died.

At the final meeting, the three remaining club members, all requesting anonymity, discussed how to wind down the club. They decided

to give the club minutes and records to the library. There were several suggestions as to what to do with the club's funds. One was to divide it now among the remaining members. Another was to continue club operations until the last 2L members had graduated. The final idea, which was accepted by consensus, was to sponsor a few subsidized events (e.g. theater trips, Law School play tickets) and to split whatever money remained at the end of the year among the current 2L members. The ideas of dividing the remaining funds among those who attended the meeting or donating the money to a Law School scholarship fund were not seriously considered. Thus ended one of the oldest and most interesting Law School traditions. *Acta est fabula.*



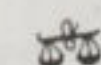
Roosevelt

(Continued from Page 3)

cern in a city that not only must accommodate 60,000 university students but also has nearly one resident in 10 living in some form of publicly subsidized housing. "Boston's housing stock," says Roosevelt, "is in terrible shape." The other critical item on the city's agenda is "making the city's schools attractive to a concerned, responsible parent," thereby slowing the recent flight of middle-income families to the suburbs.

At the heart of nearly all of Boston's difficulties is the "tax problem" — hardly surprising, Roosevelt points out, in a city where 63% of the land is owned by either the city, the Commonwealth, the federal government or private universities, none of which pays any property taxes. Roosevelt is also keenly aware of the racial and socio-economic tensions at work in city politics: "Outside of Beacon Hill, the Back Bay and downtown, Boston remains a very poor city."

Roosevelt's opponents for the full-time, \$32,000 position will be hard-pressed to show themselves to be smarter or more articulate than their young rival. In fact, they might do well simply to forget about Roosevelt's relative youth. Treating him as a mere political novice would likely be a serious mistake.



Review Criteria Discussed

(Continued from Page 1)

the registrar forwards the names of the top four students unless they affirmatively request *not* to be considered.) The motion adopted also requires the *Review* to provide the registrar with a formula for breaking the ties which frequently arise in order to eliminate the discretion presently left to the dean and the associate deans to exercise when the current formula does not succeed in breaking a tie.

The discussion took an unexpected turn when several members said they thought the proposal avoided dealing with the larger underlying issue of the *Review*'s selection criteria. Individual faculty members who often disagree with one another agreed to a surprising extent that a reexamination of the *Review*'s criteria was called for.

Prof. Morton Horwitz said he feared the change would lead to a "cynicism of form," not changing anything in substance. He argued for a more forceful proclamation of the school's "agnosticism" with regard to the *Review*. Prof. Paul Bator thought the plan would only serve

as "a minor harassment" of the *Review* and would not serve to reduce the pressures he has come to feel the emphasis on *Review* membership creates among 1Ls.

Prof. Charles Fried said he thought the *Review* had declined in quality. Now that the articles are no longer "canonical", he said, the school should be concerned that "consumers continue to be misled" to think that the school endorses the journal.

Prof. Bernard Wolfman said that, with the increasing select student body, the range of academic potential is much narrower than in the past and that some other means of performance-based selection may be more appropriate now.

Only a few faculty members said they thought the current selection does not need to be reconsidered.

Discussion of a motion to create a committee to report back on the *Review*'s selection process was put off until the Nov. 17 faculty meeting, as was discussion of a proposed resolution that would express faculty disapproval of the grade-based system.



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"BETTER BUYS AT BRINE'S"

Dispelling Illusions About Life in the Firm

(Continued from Page 8)

and films and who has even managed to retain some interest in scholarly subjects other than those specifically related to the practice of law. This does not mean that you must do the same thing; it only means that you should not flaunt your outside interests at the office.

Do not, for example, have subscriptions to *Newsweek* or *The New Republic* or *National Review* sent to the office. Keep your working draft of the great American novel in your desk at home. If you must have it with you in the office, don't pull it out until after most people have gone home.

Don't Volunteer

Such survival tactics may appear deceitful, but they are not. They are merely corollaries of the old Army maxim: "Don't volunteer."

Also, as for long hours, do not complain or object or indicate in any way that your heart does not sing when you are asked to stay 'til midnight, or later, on a project. Do not be surprised if you must stay 'til all hours to finish a set of corporate documents, only to discover that they will not be used for seven or eight months. Yours is not to reason why. . . .

Do not indulge any penchant you might have for eccentricity, if you

still have one after law school. At best, you will be viewed as "odd"; at worst, it will shake confidence in you. Many firms are stuffy, to put it bluntly. Some firms have partners who hit the ceiling if you wander the corridors without your jacket. If you want to type your work yourself, if you like to work at the typewriter, check that impulse until late at night when everyone else has departed, or at least until after the office is officially closed. Learn to dictate your work, no matter how distasteful or difficult you find it to be. Keep your copies of letters, memos, and other such documents in order where you can readily lay your hands on them. A messy desk may be the sign of a neat mind in academe, but not on Wall Street.

Some firms make a point of giving associates periodic assessments to let them know how they are doing; others do not bother to let associates know how they're doing unless they're "not working out," by which time it's too late to do anything but look up the *American Lawyer* articles on headhunters and get your resume in shape. Do not assume that you will be told how you're doing unless you can determine from your fellow associates that such is the firm practice. Assume that no news may not necessarily be good news. Behave as if you're

walking a tightrope while juggling bottles of nitroglycerine — there is such a thing as constructive paranoia. Thus, it follows that if something goes wrong and conceivably you can be blamed, you will be blamed unless you're "fireproof."

Work Comes First

In short, despite idealistic feelings of loyalty to your firm, you must keep your perspective and remind yourself repeatedly that your firm values your presence only so long as you show that you're capable of turning out good work on time. Partners care only about your work, not about your charm or musical ability or flair for creative writing or mystical leanings. The skills which you have cultivated since you first thought about college have no place whatsoever in the world of a large urban law firm.

Samuel Johnson once wrote: "It must be remembered, that life consists not of a series of illustrious actions, or elegant enjoyments; the greater part of our time passes in compliance with necessities, in the performance of daily duties, in the removal of small inconveniences, in the procurement of petty pleasures. . . ." This is especially true of the life of a first-year associate. The virtues which are most prized by law firms are diligence, attention to detail, promptness, and compliance with the stated requirements of the tasks you are assigned to do. Many of them are nowhere near as urgent as you are told; some will even appear ridiculous. You may even conclude — and more often than you realize, you will be right — that the only urgency comes from the partner's having waited too long to pass the assignment on to you. You will just have to live with it and to do the work regardless. The work will not go away if you ignore it, but you will.

Robert McGillicuddy is a pseudonym for someone who wrote this article from direct experience.

HARVARD LAW RECORD



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Of Law, Music and Comedy

Charles Thensted

If you only intend to read one sentence about the HLS Drama Society's first fall production, "It's a Long Way to Certiorari," make it this next one. Kip Purcell, 2L, who sings but one song in the show, is alone worth the price of admission; he's that good.

There are a lot of other things to like in the show, a musical comedy revue, although, owing to some self-inflicted wounds, the total effect may be less than the sum of its parts. The production numbers occasionally drag and the ensemble singing is sometimes tedious, but when things are kept simple, it's fun, and gems (like Kip) abound.

The first pleasant surprise in the show is an amusing, winning duet by two of the more polished cast members, Natalie Marron and Ken Hodder, both 3L's. She has a nice voice and a comfortable stage pres-

ence, and he's just a kick. Hodder is a natural comedian who moves and mugs well and wastes nary a moment on stage, whether as a perfectly unctuous Ted Baxter in a Mary Tyler Moore spoof or as one of "the grossly over-paid" in a "Sally Stutters" plea for funds to take summer associates to lunch.

Paul Kiernan, 3L, is another who puts a gloss of gold on everything he touches. His "Archie Bunkum" is near perfect, as is the piece in which he appears, "Law in the Family," the tightest and most consistently funny of the show's four extended comedy sketches.

Kiernan also sings a credible "Wichita Lineman" in tandem with Carolyn Kratz, another 2L with a very pleasing voice. But, like Hodder, Kiernan's strong suit is comedy, which he displays once again in "High Plains Drafter" as a corrosive Texas fat cat. "Drafter" depends for its serio-comic force on the well-paced narrative of 3L Bud Gilbert, who plays an ambitious HLS graduate bent on conquering the West. It's got everything a Texas-style fable needs: a sassy dance-hall queen, greedy oil men, a tall blond hero and a damn-fine balladeer. What's most notable about this sketch, however, besides Gilbert's powers of memorization, is its cogent, literate script.

The same cannot be said for "Mary Tyler Moore or Less," which

in the dress rehearsal version I saw could have done with considerably less. It too has its moments, including the aforementioned Hodder, Marron as Mary, and a regrettably brief appearance by Rick Sankovitz, 3L. Sankovitz shows a real flair for sketch comedy but is wasted in his primary role as MC where his savoir faire and aplomb find absolutely no justification in his material.

Although the musical numbers are a bit uneven, there are more than a few exceptions. Rosanna Marquez, 2L, and Jim Goldstein, 1L, join forces on a nice song and dance rendition of "Basin Street Blues." Bud Gilbert and several cast members team up on a simple but charmingly effective "Miles and Miles of Texas." And don't forget Purcell, whose stirring "Girl in the Heart of Maryland" steals the show.

Marquez returns in the final sketch of the night, "Valley DA," the logical, legal extension of the Zappa family hit. "Valley" is exceptional because all the roles are strongly played down to the judge, jurors and defendant (all of whom milk it for all it's worth) in the climactic courtroom confrontation between "Valley Girlson" (Marquez) and Perry Mason (Hodder).

I should also mention Ruben Perlmutter, 2L, the least likely of all Elvis impersonators, who does a mean "Blue Moon of Kentucky" good enough to warm the heart of any fan of the young King.

This show has its flaws, lapses, technical problems and excesses, but it also has tons of energy, loads of talent, a versatile, hard-driving band, and, most remarkable of all, an all-Law-School cast. If you see it — and you should — you'll have fun. In the words of Valley Girlson: "It's like tubular, ya know?"

"It's a Long Way to Certiorari" runs through Saturday at Pound with performances at 7:00 and 9:30. Admission is \$3.00.

Sports Quiz

Note: The athletes referred to in this week's sports quiz all share a particularly common last name.

1. This hockey player began his NHL career with the L.A. Kings in 1971, and in 1979 became the first goalie in NHL history to be credited with a goal scored. Name this player.
2. This veteran outfielder drove in 100 runs for the St. Louis Cardinals in 1974 and has had the opportunity to play in four separate World Series. Name this athlete.
3. Going into this NBA season, this two-time all-star was desperately trying to latch on with a team so he could continue his quest for the NBA record for most consecutive games played. Name this man.
4. Though often overshadowed by teammates Lynn Swann and John Stallworth, this Michigan alumnus has been a fine wide receiver in his own right. Name this player.
5. This former NFL tight end played with the same team for thirteen years, was an all-pro twice, and participated in Super Bowl VII. Name this former star.

(Answers on Page 16)

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McGovern: Dangerous Simplicity in Policy

(Continued from Page 9)

on grounds that the gaps were in our favor. Yet this mythical threat is being used to justify "an extravagant military spending spree that can only dissipate the resources of the American economy," McGovern said.

"Limited nuclear war is by far the most ignorant and dangerous of Reagan administration policies," McGovern claimed, because it assumes calm, rational behavior in a crisis atmosphere of mutual suspicion, uncertainty about each other's knowledge and assumptions, and sudden, catastrophic destruction. Leaders would not and could not simply alternate destroying agreed-upon cities. Rather than inferring from our adversary postures the necessity to plan for war, Reagan could, like President Nixon, attempt to achieve détente.

McGovern praised Nixon's achievement of negotiating SALT I in spite of the Vietnam War, citing that achievement as an example Reagan could follow in seeking specific cooperation in spite of general hostility. Having held up Reagan's Republican predecessors as models to follow, McGovern concluded that an immediate nuclear freeze is an essential first step in "halting the arms race so we can save the human race."

McGovern's criticism of Reagan was little challenged by his receptive audience, most of which gave him a standing ovation. Questioned after sharply criticizing Israeli

"overkill" in Beirut, McGovern conceded that Israel's operations in Lebanon had at least one positive effect: awakening the Israeli peace movement.

While McGovern would not agree that public debate has been overly focussed on nuclear weapons alone, he agreed with another questioner that conventional arms in Third World countries, as a growing percentage of their budgets and of superpower arms sales competition, are increasingly dangerous. However, he believes that American military personnel and conventional weapons need upgrading, as the Reagan budget undervalues both maintenance of equipment and retention of the most skilled servicemen.

Responding to the inevitable

questions about his party's and his own political future, McGovern said that the crucial elements of a Democratic policy alternative in 1984 are "an immediate halt to any accumulation of nuclear weapons" and economic policies endorsing not European-style social democracy, but "democratic planning" involving greater government-industry cooperation.

While conceding his slim chances of being nominated and elected, McGovern would not rule out another try for the Presidency, especially in a situation where he thought his candidacy could help improve the voters' understanding of the crucial foreign and economic policy issues.



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Sports Answers

1. Billy Smith
2. Reggie Smith
3. Randy Smith
4. Jim Smith
5. Jerry Smith

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